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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 MELVIN CHARLES COLEMAN, JR.,

11 Petitioner,

12 vs.

13 ROBERT LEGRAND, *et al.*,

14 Respondents.  
15

Case No. 3:14-cv-00337-RCJ-VPC

**ORDER**

16  
17 Petitioner, through counsel, has filed his second amended petition (#18). Good cause appearing,  
18 petitioner's motion for leave to file juvenile records under seal (#19) is granted.

19 **IT THEREFORE IS ORDERED** that respondents shall file a response to the second amended  
20 petition, including potentially by motion to dismiss, within **ninety (90) days** of the date of this order,  
21 with any requests for relief by petitioner by motion otherwise being subject to the normal briefing  
22 schedule under the local rules. **Any response filed shall comply with the remaining provisions**  
23 **below, which are entered pursuant to Habeas Rule 4.**

24 **IT FURTHER IS ORDERED** that any procedural defenses raised by respondents in this case  
25 shall be raised together in a single consolidated motion to dismiss. In other words, the court does not  
26 wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive  
27 motions to dismiss or embedded in the answer. Procedural defenses omitted from such motion to  
28 dismiss will be subject to potential waiver. Respondents shall not file a response in this case that

1 consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28  
2 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek  
3 dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to  
4 dismiss **not** in the answer; and (b) they shall specifically direct their argument to the standard for  
5 dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In  
6 short, no procedural defenses, including exhaustion, shall be included with the merits in an answer. All  
7 procedural defenses, including exhaustion, instead must be raised by motion to dismiss.

8 **IT FURTHER IS ORDERED** that, in any answer filed on the merits, respondents shall  
9 specifically cite to and address the applicable state court written decision and state court record  
10 materials, if any, regarding each claim within the response as to that claim.

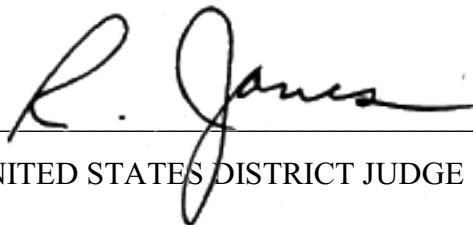
11 **IT FURTHER IS ORDERED** that petitioner shall have **thirty (30) days** from service of the  
12 answer, motion to dismiss, or other response to file a reply or opposition, with any other requests for  
13 relief by respondents by motion otherwise being subject to the normal briefing schedule under the local  
14 rules.

15 **IT FURTHER IS ORDERED** that any additional state court record exhibits filed herein by  
16 either petitioner or respondents shall be filed with a separate index of exhibits identifying the exhibits  
17 by number. The CM/ECF attachments that are filed further shall be identified by the number or  
18 numbers of the exhibits in the attachment. The hard copy of any additional state court record exhibits  
19 shall be forwarded – for this case – to the staff attorneys in **Reno**.

20 **IT FURTHER IS ORDERED** that petitioner's second motion to extend time (ECF #16) is  
21 **GRANTED** *nunc pro tunc*.

22 **IT FURTHER IS ORDERED** that petitioner's motion for leave to file juvenile records under  
23 seal (ECF #19) is **GRANTED**.

24 DATED: This 11<sup>th</sup> day of February, 2015

25   
26 UNITED STATES DISTRICT JUDGE  
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